

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

OP.No. 21982 of 2000(P)

PETITIONERS:

1. K.C.RAJAN, KALLUVILA ESTATE,
MURINJAKAL P.O., KOODAL,
PATHANAMTHITTA DISTRICT.
 2. K.C.THOMAS, -DO- -DO-
 3. ALEX K.THOMAS, -DO- -DO-
 4. K.C.BABU, -DO- -DO-
- ADDL. 5. SINDHU JOHN, D/O.V.T.JOHN, PALACKAMANNIL HOUSE,
KALATHIPADI DESOM, VIJAYAPURAM VILLAGE, KOTTAYAM DISTRICT.
NOW RESIDING AT ABDULLAH AL SAHMMALI VILLA
NO.13, STREET NO.32A, JAFFILIYA, DUBAI, UNITED
ARAB EMIRATES, REP. BY POWER OF ATTORNEY HOLDER,
RAJAN.C.THOMAS, S/O.LATE MR.C.O.THOMAS
AGED 63, RESIDING AT 49/1393-E-1, ROHINI APARTMENT
MEENACHIRA ROAD, ELAMAKKARA P.O., VILLAGE EDAPPALLY
NORTH, TALUK KANAYANNOOR, ERNAKULAM.
- ADDL. 6. VALIYATH THOMAS JOHN, AGED 52 YEARS,
S/O.PALACKAMANNIL JOHN THOMAS, PALACKAMANNIL HOUSE,
KALATHIPADI DESOM, VIJAYAPURAM VILLAGE, KOTTAYAM DISTRICT.
NOW RESIDING AT ABDULLAH AL SAHMMALI VILLA
NO.13, STREET NO.32A, JAFFILIYA, DUBAI, UNITED
ARAB EMIRATES, REP. BY POWER OF ATTORNEY HOLDER,
RAJAN.C.THOMAS, S/O.LATE MR.C.O.THOMAS
AGED 63, RESIDING AT 49/1393-E-1, ROHINI APARTMENT
MEENACHIRA ROAD, ELAMAKKARA P.O., VILLAGE EDAPPALLY
NORTH, TALUK KANAYANNOOR, ERNAKULAM.
- ADDL. 7. SIBY THOMAS JOHN, AGED 22 YEARS,
PALACKAMANNIL HOUSE,
KALATHIPADI DESOM, VIJAYAPURAM VILLAGE, KOTTAYAM DISTRICT.
NOW RESIDING AT ABDULLAH AL SAHMMALI VILLA
NO.13, STREET NO.32A, JAFFILIYA, DUBAI, UNITED
ARAB EMIRATES, REP. BY POWER OF ATTORNEY HOLDER,
RAJAN.C.THOMAS, S/O.LATE MR.C.O.THOMAS
AGED 63, RESIDING AT 49/1393-E-1, ROHINI APARTMENT
MEENACHIRA ROAD, ELAMAKKARA P.O., VILLAGE EDAPPALLY
NORTH, TALUK KANAYANNOOR, ERNAKULAM.

(IMPLEADED AS ADDITIONAL RESPONDENTS 6 TO 8
AS PER ORDER DT. 14.1.2004 IN I.A.No.528/2004 AND
TRANPOSED AS ADDITIONAL PETITIONERS 5 TO 7 AS
PER ORDER DT. 10.2.2004 IN I.A.NO.1755/2004)

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENTS:

1. STATE OF KERALA, REP. BY CHIEF SECRETARY, KERALA
GOVERNMENT SECRETARIATE, THIRUVANANTHAPURAM.
2. KERALA STATE ELECTRICITY BOARD, REP. BY ITS
SECRETARY, THIRUVANANTHAPURAM.
3. DISTRICT COLLECTOR, PATHANAMTHITTA.
4. SPECIAL DEPUTY COLLECTOR (L.A.) FOR K.S.E.B.
THIRUVANANTHAPURAM.
5. DEPUTY CHIEF ENGINEER, T.C.CIRCLE, K.S.E.B., ALAPPUZHA.
- ADDL. 6. PANDALAM GRAMA PANCHAYAT, REP. BY ITS SECRETARY,
PANDALAM, PATHANAMTHITTA DISTRICT.

(IMPLEADED AS ADDITIONAL 6TH RESPONDENT AS PER ORDER
DT. 8.10.2007 IN I.A.NO.1754/2004)

R1 & R3 - BY GOVERNMENT PLEADER SRI.BASANT BALAJI.
R2, R4, R5 - BY SRI.C.K.KARUNAKARAN, SC FOR KSEB
R6 - BY ADV. SRI.SIBY MATHEW.

THIS ORIGINAL PETITION HAVING COME UP FOR ADMISSION ON
ON 05/12/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.PADMANABHAN NAIR, J.

O.P.No.21982 of 2000

Dated this the 5th December, 2007.

J U D G M E N T

Petitioners have filed this original petition to quash Ext.P11, so far as, to the extent it adversely affect the petitioners, and for other reliefs. The land belonging to the petitioners were sought to be acquired for construction of 33 KV Sub Station at Pandalam. During the pendency of the original petition, counsel for the petitioners submitted that Kerala State Electricity Board had already obtained another land for the purpose of constructing 33 KV Sub Station, and as such, petitioners' land was not required. I directed Kerala State Electricity Board (for short 'KSEB') to file a statement. KSEB had filed a statement to the effect that after issuing a notification under Section 4(1) of the Land Acquisition Act, in respect of the properties owned by the petitioners, Pandalam Grama Panchayat had agreed to give 36 Ares of land owned by the Panchayat, for the purpose of construction of 33 KV Sub Station, and a notification to that effect was also issued. It is further stated that, that notification was objected to by the revenue department, stating that the authority to transfer the Government land is the Revenue Department and not the local self

department. Accordingly, the local self department divested the land back to the revenue department for transferring the same to KSEB, and a notification to that effect is being processed at the office of the Director of Panchayats, Thiruvananthapuram. It is further stated that this land can be used for the construction of Sub Station at Pandalam, and if this is materialising, there is no need for acquiring the land owned by the petitioners.

In view of the statement made by the second respondent, KSEB, I am of the view that Ext.P11 notification issued under Section 4(1) read with Section 17(4) of the Land Acquisition Act can be quashed. But it is made clear that in case KSEB does not get any alternate land, this judgment will not be a bar for KSEB in respect of this land also, if any land is necessary for construction of sub station.

C.M.P.No.36982/2000 in O.P.No.21982/2000 is accordingly dismissed.

**K.PADMANABHAN NAIR,
JUDGE**

nj.

K.PADMANABHAN NAIR, J.

O.P.No.21982 of 2000

J U D G M E N T

Dated:5th December, 2007.
